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HISTORICAL REVIEW

OF

MINERAL OWNERSHIP IN ALBERTA

The owner of the surface does not always own the minerals and there is an interesting historical background behind this situation and the distribution of the ownership of minerals in Alberta.

EARLY HISTORY

In the year 1670 King Charles II of England granted to The Governor and Company of Adventurers of England, trading into Hudson's Bay (known to us today as the Hudson's Bay Company) all of the lands including surface and minerals in the great water-shed draining into Hudson Bay, in return for the work of exploration and development of the Commercial Empire of England by that company. This grant covered a large area of 1,480,000 square miles westerly from Hudson Bay in what is now Manitoba, Saskatchewan, Alberta and the Northwest Territories. The Territory was claimed by England, for in those early days of exploration, as is well known, it was the practice for countries to claim ownership of those lands first discovered by their subjects.

On the 19th day of November, 1869 the Hudson's Bay Company entered into an agreement with the Dominion of Canada whereby the Company surrendered all of its lands to Canada in consideration of

1. a payment of three hundred thousand pounds sterling,
2. return of lands at the Company's different trading posts and settlements, totalling about 45,000 acres, and
3. a grant of one-twentieth of the land surveyed and settled during the next fifty years in what was referred to as the "Fertile belt", an area described in the Deed of Surrender as being bounded on the

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south by the United States; on the west by the Rocky Mountains; on the north by the northern branch of the Saskatchewan River; and on the east by Lake Winnipeg, Lake of the Woods and the waters connecting them. This worked out to one and three quarter sections in each township not divisible by five and two sections in each township divisible by five for a total of seven million acres, of which about 2,404,000 acres were located in Alberta. Ownership of minerals within, upon or under these lands went to the company along with the surface.

As a result of the surrender by the Hudson's Bay Company to the Crown in 1869, the Crown owned 95% of the surface and minerals in the area known as the "fertile belt" and of course the surface and minerals in the other unsettled parts of the country.

When the Canadian Pacific Railway Company was organized, the Dominion of Canada granted to it by way of subsidy for building a trans-continental railway, a large area including surface and minerals along the right-of-way of the railway. Similar grants were made to smaller railways some of which were subsequently taken over by the Canadian Pacific Railway Company.

In the four western provinces of Manitoba, Saskatchewan, Alberta and British Columbia, 3,527.26 miles of railway were constructed, each Company being given a land subsidy to aid in the construction of its own particular railway. In the four provinces combined, a total of 31,672,006 acres was transferred to the different companies as land subsidies for the railway mileage so constructed.

Land subsidies that were granted in the western provinces to aid in the construction of railways are shown, as applicable to Alberta, in the following table

(a) coal,
(b) coal and valuable stone,
(c) coal, petroleum and valuable stone,
(d) all mine and minerals.

	Alberta mileage	Alberta acreage patented
Calgary and Edmonton Railway Company	295.07	1,806,168
Alberta Railway and Coal Company	174.12	1,096,217
Souris Branch, Canadian Pacific Railway Company	Nil	160
Pipestone Extension, Souris Branch, Canadian Pacific Railway Company	Nil	521
Great North West Central Railway Company	Nil	640
Manitoba Southwestern Colonization Railway Company	Nil	319,680
Canadian Northern Railway Company	Nil	859
Manitoba and Southeastern Railway Company	Nil	312
Canadian Pacific Railway Company	332.10	9,807,174
Total	801.29	13,031,731

The subsequent ownership of minerals contained in C.P.R. and Hudson's Bay lands was governed by the conditions contained in the agreements for sale. Prior to 1902, the C.P.R. in disposing of its lands made no reservation of minerals and until about 1908 the Hudson's Bay Company did not reserve the minerals when selling land. Between the years 1902 and 1912, depending upon the location of the land and available forecasts regarding the possible accumulation of minerals, the C.P.R. may have reserved

(a) coal,
(b) coal and valuable stone,
(c) coal, petroleum and valuable stone, or
(d) all mines and minerals.

However, in practically all sales from 1912 on, the C.R.R. reserved all mines and minerals.

The Federal Government is to be complimented for its decision on October 31, 1887 to reserve in the name of the Crown for the benefit of the people the minerals in homesteads and other sales of lands lying west of the third meridian.

The decision of the Federal Government is contained in P.C. No. 1070 reading

> "On a Memorandum dated 12th May, 1887, from the Minister of the Interior, recommending that a clause be inserted in all patents from the Crown for lands in the North West Territories, situate West of the Third Meridian reserving to Her Majesty, Her Successors and Assigns forever, all mines and minerals which may be found to exist within, upon, or under such lands, together with full power to work the same, and for this purpose to enter upon, and use and occupy the said lands or so much thereof and to such an extent as may be necessary for the effectual working of the said minerals, or the mines, pits, seams and veins containing the same.
>
> The Minister of Justice, to whom the foregoing Memorandum was referred, concurs in the recommendation, except in the case of patents for lands which have already been sold or disposed of for valuable consideration.
>
> The Committee submit the same for Your Excellency's approval.
>
> (Signed) JOHN J. McGEE,
>
> Clerk, Privy Council".

The Dominion Lands Act of 1886 applied to the disposal of all public lands included in Manitoba and the several territories of Canada and included the following section

> "98. The Minister, with the approval of the Governor in Council, may, whenever he deems it necessary so to do, vary any of the forms in the schedule to this Act from form A to form K, both inclusive,-- or he may, from time to time, with the like approval, cause to be adopted such other forms to the like effect as he considers applicable to any special case or class of cases."

The decision of the Minister referred to in the Order in Council in 1887 was actually approved by the Governor in Council with respect to the variation in the forms. The statute also provided for the making of regulations by the Governor in Council and included the following provision

> "91. Every order or regulation made by the Governor in Council, in virtue of the provisions of the next preceding clause, or of any other clause of this Act, shall, unless otherwise specially provided in this Act, have force and effect only after the same has been published for four successive weeks in the Canada Gazette; and all such orders or regulations shall be laid before both Houses of Parliament, within the first fifteen days of the session next after the date thereof."

Order in Council No. 1070 was never gazetted and as time went on there was doubt as to whether the reservation of minerals was actually effective by changing the forms used under the Act, so in order to remove any uncertainties an Act respecting Dominion Lands was passed at the session of the Government of Canada in 1894 and section 2 reads

> "2. Notwithstanding anything contained in any such Act, the omission to publish any order or regulation heretofore made by the Governor in Council under the provisions of any Act relating to Dominion lands, or to publish such order or regulation in any prescribed manner, shall not be held to invalidate it or anything done thereunder."

FEDERAL ADMINISTRATION

UNDER

DEPARTMENT OF THE INTERIOR

PETROLEUM LAND SALES

During the year 1898, applications were made to the Department of the Interior to prospect for petroleum in lands in southern Alberta

and by Order in Council No. 1822 of the 6th day of August, 1898, the Minister of the Interior was authorized to reserve for an applicant for a period of six months an area not exceeding 640 acres of land to prospect thereon for petroleum and in the event of oil being found in paying quantity to sell the land to the applicant at the rate of $1.00 an acre with the provision that a royalty of 2½% upon the sales of the petroleum be paid to the Crown. This order applied to lands situated south of the Canadian Pacific Railway in the District of Alberta.

The Order was rescinded by Order in Council No. 893 on the 31st day of May, 1901 which recites that it was deemed no longer advisable in the public interest to reserve for an applicant any particular area of land for the purpose of prospecting thereon for petroleum. The new Order in Council provided that all unappropriated Dominion lands in what is now Alberta on and after the first day of July, 1901, were open to prospecting for petroleum by any individual or company desiring to do so. Should oil in paying quantity be discovered by a prospector on any vacant land of the Crown, an area not exceeding 640 acres of land including and surrounding the land on which the discovery was made could be sold to the person or company making such discovery at the rate of $1.00 an acre subject to a royalty at the rate from time to time prescribed by Order in Council.

In December, 1902, the regulations were amended permitting the Minister to reserve for an individual or company who had machinery on the land to be prospected, an area of 640 acres of such shape as the Minister approved and the reservation made for such period as the

Minister decided.

By an amendment in May, 1904, the area to be reserved for an individual or company was increased to 1,920 acres, the length of the tract not to exceed three times its breadth. Should oil in paying quantity be discovered by the prospector an area not exceeding 640 acres would be sold at the rate of $1.00 an acre and the remainder of the area reserved, namely, 1,280 acres would be sold at the rate of $3.00 an acre. The amendment provided that the patent for the land would convey the surface and the petroleum but would exclude all other minerals. This was the first indication of the rights to be conveyed in the patent.

The regulations were amended in July, 1905 to apply to lands the surface rights of which had been disposed of subject to the condition that the prospector, before entering upon lands disposed of, had to obtain a lease from the owner of the surface rights upon a form approved by the Minister of the Interior. The next amendment came in December, 1906, permitting the Minister upon application to make a reservation of an area of 1,920 acres for a period of four months for the purpose of allowing the applicant a sufficient time to install on the land the required machinery. The fee for a reservation was $100.00. If the applicant failed to place machinery on the land within the period of four months the fee was forfeited while if the machinery were placed upon the land and oil were found in paying quantity the fee could apply upon the purchase price or be refunded in case no discovery were made. During the period that the reservation was held the rights and privileges were not assignable. The Order

also provided that the regulations for the reservation and sale of petroleum lands applied to the reservation and sale of lands for natural gas purposes.

These regulations for sale of petroleum and natural gas lands were rescinded on the 11th day of March, 1910. Twelve sales were patented in Alberta covering 16,028 acres. Two of the patents were for surface and petroleum in 166 acres in Waterton Lakes National Park. Two other patents within the same park covered surface and petroleum and natural gas in 1,375 acres. One patent was granted for surface and petroleum and natural gas in 1,762 acres at Bow Island. The other seven patents were for surface and petroleum and natural gas in areas totalling 12,725 acres along the Athabasca River north of McMurray.

The first regulations governing the leasing of petroleum and natural gas rights came into being on May 2, 1910. These regulations applied to all Dominion lands in Alberta.

LEASES

The main features of the leases were

Rental - Twenty-five cents an acre for the first year and fifty cents an acre for each succeeding year.

Term - Twenty-one years and renewable for twenty-one years.

Maximum Area - 1,920 acres.

Work Required - Install machinery suitable for carrying on prospecting operations within one year of the date of the lease with the proviso that the value of the

machinery so installed need not exceed the sum of $5,000.00. Within fifteen months of the date of the lease commence boring operations on the leasehold.

Rights Conveyed - Oil and natural gas rights, the property of the Crown.

Royalty - None on petroleum products until the first day of January, 1930. After that date subject to the royalty prescribed by regulations. On natural gas a royalty at the rate from time to time specified by Order in Council on the natural gas products recovered.

Credits - The rentals for the second and third year of the lease could be satisfied from expenditures incurred in drilling.

Number of Leases - Only the maximum area of 1,920 acres could be held under lease by application but there was no restriction as to the number of leases that might be held by assignment.

Minor changes were made in the lease regulations up to 1930. The rental for the first year was increased from 25 cents to 50 cents an acre and the rental for each succeeding year was increased from 50 cents to $1.00 an acre. The application of drilling credit in satisfaction of rentals was extended to the fourth and fifth year's rentals. The rights conveyed were restricted to the oil and gas that could be obtained by the usual process of boring but not the oil shale

rights nor the oil which might be recovered from such shales by the process of extraction customary in such cases. Provision was made in 1913 for a lessee to group his leases so that the drilling of a well would satisfy the drilling of one well on each lease included in the group, the maximum area permitted in a group was 12,800 acres and this was increased in 1922 to 20,000 acres.

SCHOOL LANDS

Sections 11 and 29 in each township surveyed have always been designated school lands although because of exchanges this rule does not completely apply.

Regulations for the issue of leases for petroleum and natural gas rights in school lands were established on May 14, 1913. The lease conditions were much the same as for Dominion lands excepting that the maximum area that could be held by application was 640 acres and there was no provision for grouping for drilling until the regulations applying to Dominion lands were made to apply to school lands on the twelfth day of July, 1928.

PROSPECTING PERMITS

The first regulations governing the issue of permits to prospect for petroleum and natural gas, the property of the Crown, were established on May 7, 1928.

The terms of the permits may be summarized

Rental - Ten cents an acre.

Cash Bond - Forty cents an acre, refundable if core drilling or other satisfactory operations conducted.

Term	- One year.
Maximum Area	- 1,920 acres.
Right to Lease	- Entire area.
Credits	- The first year's rentals on the lease applied for out of the permit could be satisfied from expenditures incurred in exploration.

ROYALTY

As previously mentioned the petroleum and natural gas leases provided that no royalty would be charged upon the sales of the petroleum obtained until the 1st day of January, 1930.

In 1920 representations were made to the Department of the Interior that failure to fix the royalty that might be charged on the products of petroleum locations had the effect of retarding development, as persons contemplating investment in the industry hesitated to incur the large initial expenditure necessary to insure success without knowing what royalty would be charged upon the oil that might be discovered. Upon consideration of these representations an Order in Council dated October 29, 1920, provided that for a period of five years after the date upon which the Minister of the Interior might decide that oil in commercial quantity had been discovered, the royalty to be collected would not exceed 5% of the sales of the products nor be less than $2\frac{1}{2}\%$, and for a further period of five years the royalty to be collected would not exceed 10% of the sales nor be less than 5%, and thereafter the royalty would be 10% of the sales of the products.

In July, 1929 Honourable Charles Stewart, Minister of the

Interior published by advertisement a notice to holders of petroleum and natural gas leases comprising Dominion and School lands, that on and after the 1st day of January, 1930, they were required to pay to the mining recorder for the district a royalty of 5% of the petroleum and naphtha produced from wells situated on lands comprised in their leaseholds. No royalty was prescribed on sales of natural gas.

TRANSFER TO PROVINCE

The mineral resources owned by the Crown in that part of Canada now contained within the Province of Alberta were administered by the Department of the Interior of the Federal Government from 1870 until the transfer of the natural resources to the Province of Alberta.

The transfer took effect on October 1, 1930 and the active petroleum and natural gas leases and prospecting permits transferred to the Province for administration consisted of:

Nature	Number	Acreage
Leases on Dominion lands	16,904	2,269,236
Leases on school lands	1,964	191,726
Prospecting permits	99	82,965

The mineral status in the Province at the time of the transfer may be summarized as:

Retained by Canada	Acreage	
In Dominion Parks.....	13,434,240	9.0 %
In Indian Reserves.....	1,328,090	

Granted by Canada to	
Railways	13,031,731
Hudson's Bay Company	2,404,000
Others including homesteaders, prospectors, etc...(estimated)	564,269
Acquired by Alberta in the transfer	132,620,070
Total Acreage in the Province	163,382,400

PROVINCIAL ADMINISTRATION

DEPARTMENT OF LANDS AND MINES

The statutes and regulations of the Federal Government pertaining to natural resources in the province were continued in effect by The Administration of Natural Resources (Temporary) Act until June 18, 1931, on which day The Provincial Lands Act came into force by proclamation together with the regulations under the Act.

The Provincial regulations of interest here were:

1. Regulations governing the issue of permits to prospect for petroleum and natural gas.
2. Petroleum and Natural Gas Regulations (Provincial Lands).
3. Petroleum and Natural Gas Regulations (School Lands).

These regulations were practically identical to the regulations in force immediately prior to the transfer of the resources to the Province.

With the advancement of geological and geophysical methods for locating structures suitable for oil accumulation it became apparent that prospecting permits did not cover adequate acreage so

in January of 1930, the regulations were amended permitting the size of areas granted to be in the discretion of the Minister instead of the maximum area of 1,920 acres that prevailed before. At the same time the regulations dealing with leases in Provincial lands were amended increasing the size of groups to 50,000 acres and permitting the application of drilling credits in satisfaction of lease rentals up to and including the twelfth year of the lease.

In September of 1937, the prospecting permit regulations were rescinded and replaced by Regulations Governing Petroleum and Natural Gas Reservations allowing up to 50,000 acres to be included in a reservation.

In March of 1941, new regulations were established for the reservation of petroleum and natural gas rights. The maximum area of a reservation was increased to 200,000 acres and a person was permitted to hold in his own name at any one time three reservations.

New regulations were established in August of 1941 governing the disposal of petroleum and natural gas rights, the property of the Crown in Provincial lands and in school lands. The areas obtainable under lease by application were increased from 1,920 to 9,600 acres. The number of acres to be included in a group for drilling was reduced to 19,200 acres but provision was made to permit the application of excess credits to satisfy the rental on not more than 35,000 acres in any year of other leases held by the lessee and situated elsewhere in the Province.

In July of 1947, some five months following the Leduc discovery the number of reservations a person could hold at any one time was reduced to two, each covering not more than 100,000 acres. The right to assign a reservation was then withdrawn. In August of the same year new lease regulations were established increasing the maximum size of a lease to sixteen sections or 10,240 acres and requiring the creation of a Crown reserve of equal acreage in close proximity to the lease. This meant that anyone applying for leases in an area held under reservation could acquire not in excess of 50% of the lands contained in the reservation.

In March, 1948, the lease regulations were again changed to reduce the maximum size of the lease to nine sections or 5,760 acres. The length of a lease could not exceed four miles and could not exceed twice its breadth, meaning that if a lease were taken in the form of a square each of its boundaries could be three miles in length while if it were taken in the form of a rectangle, the maximum would be eight sections or 5,120 acres. The restriction on the maximum acreage acquired by application was removed and following that time there has been no restriction on the number of leases that may be held by application or assignment.

Royalty

The royalty of 5% of sales of oil set by the Minister of the Interior continued until January 1, 1935. The royalty for the period of five years commencing January 1, 1935, was 10% of the sales and the royalty from January 1, 1940 to June 1, 1941 was 12½%.

New royalty regulations came into effect on June 1, 1941, requiring that the royalty to be computed, levied and collected on all products, other than natural gas, obtained from a well would be that percentage of the products obtained equivalent to the square root of the average daily production, subject to a maximum royalty of 15% and a minimum of 5% and also subject to the proviso that with the first return for the well an election could be made to pay royalty until the end of May, 1951, at 12½% of all products, other than natural gas, instead of on the square root formula.

The royalty on all products, other than natural gas, obtained from a lease acquired prior to the transfer of the natural resources to the Province was continued at 10%.

The royalty on natural gas for the ten year period commencing June 1, 1941, was 15% of the selling price subject to a minimum royalty of one-quarter of one cent per thousand cubic feet. The minimum royalty on natural gas was increased on March 30, 1948, to three-quarters of one cent per thousand cubic feet.

DEPARTMENT OF MINES AND MINERALS

The Department of Lands and Mines ceased to exist on April 1, 1949, on which date the Department of Mines and Minerals came into being. The Mines and Minerals Act came into force on that day and applies to all mines and minerals vested in or belonging to the Crown in right of the Province, and also applies to all mines except:

(a) as to the working and operating of a coal mine or to any working incidental to the extraction of coal, or

(b) to any drilling, production or abandonment operations of a well for which a licence is required by the provisions of The Oil and Gas Conservation Act.

The Act is divided into parts and it is proposed to comment on each part that deals with petroleum and natural gas disposals.

PART I

Section 19 empowers the Lieutenant Governor in Council to establish a tariff of fees and Regulation No. 798/57 embodies the existing tariff of fees.

Royalty

Royalty payable after June 1, 1951, is in accordance with the Petroleum and Natural Gas Royalty Regulations that came into force on June 1, 1951.

The royalty on crude oil is 16 2/3% for wells producing over 4,050 barrels a month, decreasing to 12½% when the monthly production is 1,500 to 1,800 barrels and decreasing to 5% at 600 barrels a month.

The royalty on natural gas or residue gas sold or consumed for some useful purpose is 15% of the selling price or fair value at the time and place of production, subject to a minimum of three-quarters of one cent per thousand cubic feet unless the gas is processed to obtain liquid hydrocarbons, sulphur compounds or carbon dioxide. The royalty with respect to other fluid hydrocarbons and sulphur obtained by processing natural gas is 12½% of the selling price. These royalty regulations will continue in force until June 1, 1961, and thereafter until

changed by Order of the Lieutenant Governor in Council.

PART VI

This part provides for:

(a) the establishment and disposal of Crown reserves,

(b) the provisions applicable to petroleum and natural gas leases, and

(c) empowers the Lieutenant Governor in Council to make regulations governing disposal of petroleum and natural gas rights and natural gas rights.

Crown Reserves

The petroleum and natural gas rights, the property of the Crown, in areas described in section 277 of The Mines and Minerals Act are constituted Crown reserves.

These areas are:

1. fractional areas of less than one-quarter section,
2. the areas within 14 provincial reserves covering 12,878 square miles,
3. an area equal in size and in close proximity to a petroleum and natural gas lease, and
4. the lands in a petroleum and natural gas reservation that the holder of the reservation is not permitted to acquire under lease. These areas comprise 50% of the lands in the reservation.

A Crown reserve may be disposed of upon such terms and condi-

tions as may be prescribed by the Lieutenant Governor in Council and disposition is made by advertising in the following instances:

1. leases in proven or semi-proven areas,
2. leases in unproven areas,
3. reservations in provincial reserves,
4. Crown reserve drilling reservations, and
5. Crown reserve natural gas licences.

When a right to a disposition in a Crown reserve is offered for sale, the highest offer is always accepted unless, in the case of a lease in 1. or 2. above, it is considered that the highest offer is not commensurate with the estimated value of the lease or in the case of a reservation if the highest offer is exceptionally low, then all offers for the lease or reservation are rejected.

If a fractional area is required to complete a spacing unit for a well the Lieutenant Governor in Council may set the purchase price at which the operator of the well may acquire a petroleum and natural gas lease or a natural gas lease of the fractional area. The purchase price may be set in the same way for a natural gas lease required for the operation of a natural gas utility.

Disposals of leases in Crown reserves commenced in the year 1948 and disposals of reservations and licences followed.

Dispositions

Mention is made that each petroleum and natural gas lease issued following May 15, 1948 and each natural gas lease includes a covenant by the lessee that natural gas taken from the lease shall be

used within the Province of Alberta unless the consent of the Lieutenant Governor in Council to its use elsewhere is obtained. Consent is given after a permit is obtained authorizing the removal of the gas from the Province under The Gas Resources Preservation Act.

The various types of disposals with the year of their first coming into being are:

Type	Year
Petroleum and natural gas lease	1910
Petroleum and natural gas reservation	1937
Crown reserve drilling reservation	1954
Natural gas licence	1951
Crown reserve natural gas licence	1952
Natural gas lease	1952

At December 31, 1959, the number and acreage of leases, reservations and licences were:

Nature of Disposition	Number	Acreage
Petroleum and natural gas leases	31,220	28,874,344
Petroleum and natural gas reservations	675	36,753,985
Crown reserve drilling reservations	183	1,442,194
Natural gas licences	24	734,405
Crown reserve natural gas licences	25	506,656
Natural gas leases	444	1,951,937
Totals	32,571	70,263,521

When a petroleum and natural gas lease is cancelled or surrendered the rights contained therein and the rights in the Crown reserve established for the lease, do not again become available for application as a lease or reservation until the rights have been posted for tender for a period of thirty days. If a tender is not received the rights are available for application to the first person applying at the appropriate office of the Department after 8:30 A.M. of the day following. The same procedure applies when a reservation is cancelled or surrendered or when a portion of a terminated reservation is not required for leases and their appurtenant Crown reserves.

Regulations now in effect pertaining to the various types of disposals of petroleum and natural gas rights and natural gas rights, are not reviewed because they are well known to you all.

PART VII

This Part applies to geophysical and geological explorations.

New regulations came into force on January 28, 1959 - Alberta Regulation 26/59 - permitting operations to be conducted on road allowances, public roads and vacant Crown lands. The regulations also permit operations with the prior consent of the owner or occupant, as the case may be, on lands held under title or under lease from the Crown. Reports are required monthly by the Director of Mineral Rights showing holes drilled.

The drilling of holes is restricted in:

(a) areas in which underground mines are located,

(b) areas defined as restricted areas by the Minister of Mines and Minerals.

If in drilling operations water or gas is released and comes to the surface, the hole must be plugged without undue delay to confine the water or gas to the aquifer or stratum. A hole may be completed as a water well if arrangements are made with the owner of the surface to complete the hole as a properly controlled water well.

PART VIII

This Part allows the registration of transfers of agreements such as leases, licences, reservations and permits unless prohibited from being transferred under the Act or the regulations or by the terms of the agreement. A transfer may be registered with respect to the whole of an agreement, a specified undivided interest in an agreement or as to a portion of the location described in an agreement. The Minister, apart from the insufficiency of the instrument itself, may refuse to register a transfer where registration would result in more than five persons becoming the holder of the agreement or where the specified undivided interest is less than ten per cent.

On the registration of a transfer the transferee becomes the holder of the estate, right and interest transferred. A registered transfer is granted priority under the Act over an unregistered transfer.

This Part gives the power to the Lieutenant Governor in Council to make regulations providing for the registration of documents other than transfers, a document being defined as an instrument pertaining to any right granted under an agreement. This would allow registration of such documents as farm-out agreements, trust deeds and sub-leases. Because a definite proposal has not been made by industry regulations for the registration of documents have not as yet been made.

In 1955 when section 82 of the Bank Act was amended to permit banks to loan money on the security of interests in petroleum and natural gas leases and licences, this Part was amended to allow the registration of assignments of interests in leases or licences given as security for loans to chartered banks. In practice, the actual instrument of assignment is registered although provision is made for registration by way of caveat. Since the inclusion of this amendment there have been registered with the Department some four hundred and fifty assignments given under section 82 of the Bank Act.

PART IX

Under this Part the Lieutenant Governor in Council may authorize the Minister to enter into an agreement for a unit operation, the term "unit operation" being defined as an operation in which several tracts containing oil or gas or any other minerals are integrated into a single unit. Agreements for unit operations are entered into between the owners of the oil or gas and the persons who have the right to drill for and produce the oil or gas; the reasons for doing so being to

co-ordinate the development and production of an oil or gas field or a part thereof and in some instances to implement a program of conservation.

The terms of leases comprising the tracts integrated in a unit operation are varied to the extent necessary to implement the terms of the unit agreement. In the case of the Crown a subsidiary agreement may be entered into with respect to the determination of the rate of royalty payable on Crown minerals. In addition, unit agreements may contain terms with respect to the storage of gas for use in peak periods or with respect to secondary recovery. The Crown is a party to twenty unit agreements but in view of the fact that secondary recovery is becoming increasingly important in oil fields in Alberta, the number of unit agreements involving Crown leases may be expected to increase.

PART X

This Part applies to bituminous sands defined in The Mines and Minerals Act as

> "the oil sands and all other mineral substances in association therewith being within townships eighty-four to one hundred and four inclusive in ranges four to eighteen inclusive, west of the fourth meridian and occurring in the McMurray formation, being the stratigraphic formation lying above the upper Devonian carbonate sediments and below the Clearwater formation."

The Federal Government established regulations for the disposal of bituminous sand deposits, the property of the Crown, in the Province of

Alberta five months prior to the transfer of the resources to the Province but no permits were granted.

Similar regulations were established by the Province in 1931, but no disposal had been made thereunder at the expiry of the regulations on April 1, 1949. In 1952 a form of permit was approved by the Lieutenant Governor in Council for the granting of bituminous sands areas for exploration and fourteen of these permits were granted. They have all terminated and in some cases were followed by lease.

The present regulations for the disposal of bituminous sands rights came into effect on the 14th day of December 1955. The number and acreage of permits and leases active at the 31st day of December, 1959 were:

	Number	Acreage
Bituminous sands prospecting permits	67	3,117,143
Bituminous sands leases	27	628,692

RIGHT OF ENTRY

There is one aspect of right of entry that has never changed. That is the right of the mineral operator and surface owner, without outside interference, to themselves agree on the extent of the surface that the mineral operator may use in the winning and working of his minerals and the conditions pertaining thereto.

All other aspects seem to have progressively changed.

A proposal of the Minister of the Interior that all patents of lands in the territories lying to the west of the third meridian

should reserve thereout all mines and minerals was approved on October 31, 1887 by the Governor General in Council with the exception of patents for those lands already granted or sold for consideration. This meant that on and after November 1, 1887, the minerals were reserved in homesteads, pre-emptions and sales.

Some coal lands had been sold up to the commencement of the mineral reservation and the titles conveyed the surface as well as the coal.

On January 11, 1890 regulations came into force for the sale of coal rights where the surface had been disposed of. These regulations provided that mining could not be undertaken without obtaining the consent of the surface owner or obtaining the surface required by arbitration.

Where the surface was held under homestead entry or under agreement of sale from the Crown, the portion of the surface required for mining was sold by the Department of the Interior to the mineral operator and the money collected was refunded to the occupier of the land upon his becoming entitled to a patent for the homestead. In the event of sale the money was credited to the purchase account.

When the mineral operator could not make arrangements with the owner for acquisition of the necessary surface rights, he was required to serve a notice upon the owner and within a period ranging from ten to thirty days, depending on the place of residence of the surface owner, the surface owner was required to appoint an arbitrator and if he failed, then the arbitrator on his behalf was appointed by the Agent of Dominion Lands for the District.

The mineral operator appointed his arbitrator and if the two arbitrators were unable to agree, a third arbitrator would be chosen by the two arbitrators and in the event of disagreement the Agent of Dominion Lands was required to select the third arbitrator. The award of any two such arbitrators, made in writing, was final and was required to be filed with the Agent of Dominion Lands for the District.

Subsection (b) of Section 51 of the regulations contained the principal direction to the arbitrators, and read:

"In estimating such damages, the arbitrators shall determine the value of the land irrespectively of any enhancement thereof from the existence of minerals therein."

These same provisions for acquisition of surface were included in all subsequent regulations of the Department of the Interior for the sale of coal then petroleum and later natural gas. When the adoption of a leasing policy replaced the sale policy in the period from 1907 to 1914 the provisions were continued in the lease regulations.

At the session of the Alberta Legislature in 1931 some six months following the transfer of the natural resources from federal to provincial control The Provincial Lands Act was enacted containing the following provision:

> "The Lieutenant Governor in Council may from time to time make regulations prescribing the conditions under which and the manner in which any person entitled in any way whatsoever to carry on any mining or drilling operations with the object of searching for, mining, getting or removing any minerals shall exercise any right of entry, user or taking in respect of the surface of any land which is not the property of such person and the method of ascertain-

ing the amount of any compensation to be paid to the persons having any interest in the surface, the time for payment of the compensation so to be paid, and prohibiting the exercise of any such right of entry until such compensation has been paid or until adequate provision has been made for the payment of compensation by the person exercising such right of entry, user or taking."

The first right of entry regulations came into being on the 18th day of June, 1931, which placed upon the Board of Public Utilities Commissioners the responsibility of administering the regulations and the granting of orders permitting right of entry.

On June 1, 1937, the procedure was changed to the granting of right of entry by Order of the Judge of the District Court. Because of the several Judicial Districts in the Province lack of uniformity in the awards from district to district became a concern.

Five years later the regulations were amended to return the responsibility to the Board of Public Utility Commissioners until the enactment in 1947 of The Right of Entry Arbitration Act.

To review it is pointed out that in the sixty years from 1887 to 1947 we went from and back to a Board of Arbitration, the only difference being we now have a permanent board for all hearings in place of a board appointed for each requirement for right of entry.

The Right of Entry Arbitration Board as it now exists consists of three members and administers The Right of Entry Arbitration Act.

It will be noted that some of the figures quoted in the foregoing are for the year 1959. Subsequent totals may be obtained from the Department of Mines and Minerals, Edmonton, Alberta.

November 8, 1960.